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Meeting of the Intergovernmental Open-Ended Expert Group to Prepare Draft Terms of Reference for the Negotiation of an International Legal Instrument against Corruption
Vienna, 30 July-3 August 2001

Report of the Meeting of the Intergovernmental Open-Ended Expert Group to Prepare Draft Terms of Reference for the Negotiation of an International Legal Instrument against Corruption

Corrigendum

1. **Paragraph 4, first sentence**

   For resolution 2001/... *read* resolution 2001/13

2. **Paragraph 5, draft resolution**

   Sixth preambular paragraph

   For resolution 2001/... *read* resolution 2001/13 of 24 July 2001

   Operative paragraph 4

   For resolution 2001/... *read* resolution 2001/13

3. **Paragraph 16**

   For the existing text *substitute*

   16. The representative of Belgium, addressed the Expert Group on behalf of the States members of the European Union. Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Poland, Slovakia and Turkey also associated themselves with the statement. The representative of Belgium, after commending the United Nations Convention against Transnational Organized Crime and the report of the Secretary-General on existing international legal instruments, recommendations and other documents addressing corruption (E/CN.15/2001/3 and Corr.1), made reference to the Final Declaration of the Second Global Forum on Fighting Corruption and

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Safeguarding Integrity, held in The Hague from 28 to 31 May 2001, which contained important elements for the work of the Expert Group, as well as to the different instruments developed within the framework of the European Union, as they could provide expertise in the development of a global strategy against corruption. The members of the European Union emphasized that the new instrument should set high global standards and should be compatible with the principles of existing anti-corruption instruments. The members of the Union underlined that as many countries as possible should be able to subscribe to the commitment to be expressed in the new instrument and that there should be an open dialogue among countries during the negotiation process, paying particular attention to the concerns of developing countries and countries with the economies in transition. The States members of the European Union expressed the view that the new instrument could be nothing else but a convention, should contain both preventive and enforcement measures and follow a multidisciplinary approach. In addition, the following main elements were identified for possible inclusion in the new instrument: criminalization; prevention; technical assistance; and a monitoring mechanism. Regarding criminalization, reference was made to the instruments developed by the Council of Europe, the European Union and OECD. The new instrument should follow a broad and flexible approach and cover active and passive corruption in the public sector, of both national and foreign civil servants, including international civil servants. Likewise, the mandate of the ad hoc committee should include discussion of active and passive corruption in the private sector, as well as other offences connected to corruption. The new instrument should address laundering of the proceeds of corruption and their seizure and confiscation as well as international cooperation in that regard. The provisions of the United Nations Convention against Transnational Organized Crime represented a good example to follow. Its provisions on criminal law and procedure, such as penalties, protection of witnesses, responsibility of legal persons and international cooperation, could provide further guidance. The question of the return of funds of illicit origin should also be addressed in an effective and satisfactory manner. The European Union stressed that criminalization and sanction models should respect human rights and fundamental freedoms. Regarding prevention, the European Union was of the view that preventive measures were necessary to develop a global strategy against corruption and that they should be based on fundamental principles, such as good governance, integrity and transparency. They are of the highest importance in such matters as transparency of public procurement, international standards of auditing and accounts, prohibition of tax allowances, company law and codes of conduct. The European Union considered it important also to include mechanisms to provide technical assistance to developing countries and countries with economies in transition, as well as the establishment of a monitoring mechanism, which should be based on the equality of obligations and be effective and flexible. More specifically, the European Union could not accept criminalization models that were based on reversal of the burden of proof, which was contrary to the European Convention on Human Rights.